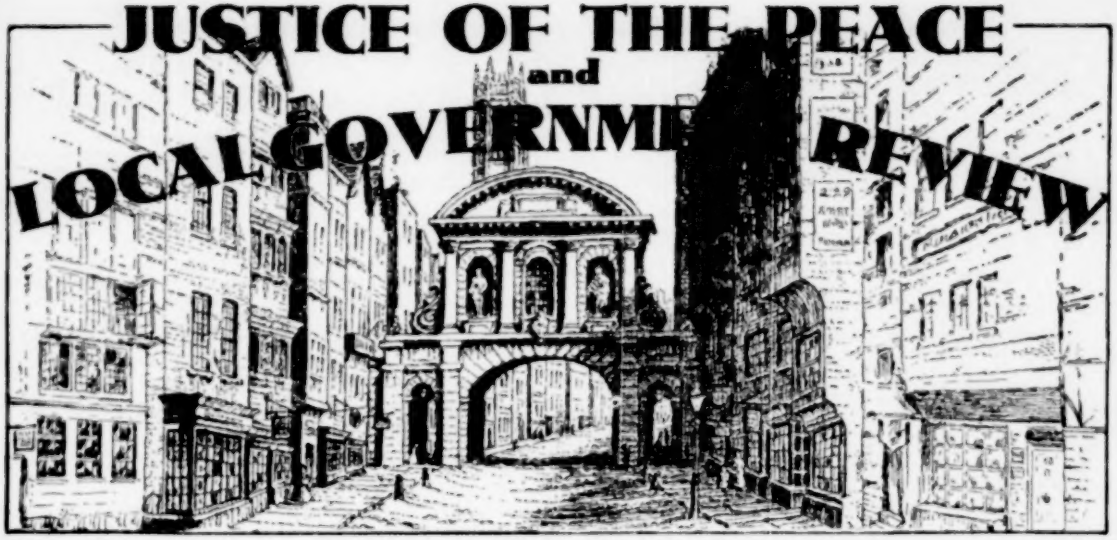
JUSTICE OF THE PEACE and LOCAL GOVERNMENT REVIEW



VOL. CXIV. LONDON: SATURDAY, FEBRUARY 11, 1950. No. 6

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LEGACIES FOR ENDOWMENT

THOSE making or revising their Wills may like to consider benefiting some selected aspect of Church Army Social or Evangelistic work by the endowment of a particular activity—thus ensuring effective continuance down the years.

Gifts—by legacy or otherwise—will be valued for investment which would produce an income in support of a specific object, of which the following are suggestions:—

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2. **Support of Church Army Officers and Sisters in poorest parishes.**
3. **Distressed Gentlewomen's Work.**
4. **Clergy Rest Houses.**

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Funds are urgently needed to meet heavy reconstruction commitments and to enable the Trustees to continue and develop Miss Weston's work for the Spiritual, Moral and Physical Welfare of the ROYAL NAVY and other Services.

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Official Advertisements (Appointments, Tenders, etc.), 2s. per line and 3s. per displayed headline. Miscellaneous Advertisements 24 words 6s. (each additional line 1s. 6d.) Box Number 1s. extra. *Latest time for receipt—9 a.m. Wednesday.*

None of the vacancies in these columns relates to men and women coming within the provisions of the Control of Employment Order, 1947, S.R. & O., No. 1951, or to a vacancy in for employment exempted from the provisions of the Order.

County of Cambridge

Petty Sessional Division of Linton

Appointment of Part-time Clerk to the Justices

APPLICATIONS are invited from Solicitors for the appointment of Clerk to the Justices for the Petty Sessional Division of Linton in the County of Cambridge.

The present inclusive salary paid by the Standing Joint Committee is £282 13s. 4d. per annum. The appointed Clerk will provide an office and clerical assistance, but will receive a Book Allowance of £3 per annum and payment in respect of Magisterial Forms and postages.

Applications, marked "Justices' Clerk," stating age, qualifications and experience, should be sent to me at the address given below, not later than February 20, 1950.

The applicants must be in a position to take over the duties on April 1, 1950.

WILLIAM ADAMS,
Clerk to the Justices.

14, Church Street,
Saffron Walden,
Essex.

City and County of Norwich

Appointment of Probation Officer

APPLICATIONS are invited for the appointment of a full-time female Probation Officer.

The appointment will be subject to the Probation Rules, 1949, and the salary will be according to the scale prescribed by those Rules.

The successful applicant will be required to pass a medical examination.

Applications stating age, present position, qualifications and experience, together with copies of not more than three recent testimonials must reach the undersigned not later than Saturday, March 18, 1950.

H. A. SHARMAN,
Secretary of the Probation Committee.

Guildhall,
Norwich.

County Borough of East Ham

Town Clerk's Department

APPLICATIONS are invited for the post of senior law clerk and town planning committee clerk in my department.

The salary paid will be in accordance with Grade A.P.T. IV of the National Scales, *viz.*, £480 – £15—£525 plus appropriate London Weighting.

Forms of application (which must be delivered to me not later than February 20, 1950) together with the conditions of and the duties attached to the appointment may be obtained from the undersigned.

Canvassing in any form will disqualify.

H. A. EDWARDS,
Town Clerk.

Town Hall,
East Ham, E. 6.

Holland County Council

Clerk's Department

Appointment of Conveyancing and Legal Assistant

APPLICATIONS are invited for the appointment of a conveyancing and legal assistant at a salary in accordance with Grade IV of the A.P.T. Division of the National Scale of Salaries (£480—£525). Applicants must be experienced in the work of a solicitor's office or the legal department of a local authority. The usual Conditions of Service apply and the successful candidate will be required to pass a medical examination. The Council cannot undertake to provide housing accommodation.

Applications, stating age, particulars of experience and the names of three persons to whom reference can be made, should be sent to the undersigned on or before February 28, 1950.

H. C. MARRIS,
Clerk of the County Council.

County Hall,
Boston,
Lincolnshire.

County of Surrey

Chertsey Petty Sessional Division

APPLICATIONS are invited for the appointment of Chief Assistant in the office of the Clerk to the Justices for this Division which comprises the Urban Districts of Chertsey, Egham, Walton and Weybridge.

Applicants should be experienced in the general duties of a justices' clerk's office including the keeping of magisterial accounts, court registers and other records. They should be able to take the second court and to take occasional courts when required. A knowledge of typewriting is essential.

Salary in accordance with A.P. & T. Division of the National Scale Grade IV (£480—£525) or Grade V (£520—£570) according to experience and qualifications.

Applications stating age, particulars of experience and copies of two testimonials (or names and addresses of two referees) to be sent to the undersigned (marked "Chief Assistant") at Midland Bank Chambers, Market Place, Kingston on Thames, by February 20, 1950.

C. EDGAR SHELLEY,
Clerk to the Justices.

Borough of Bridlington

Appointment of Assistant Solicitor

APPLICATIONS are invited for the above appointment at a salary according to Grade A.P.T. V(a) of the National Scales of Salaries (£550 – £20—£610 per annum).

The appointment will be subject to the Local Government Superannuation Act, 1937, to the successful applicant passing a medical examination, and to the National Scheme of Conditions of Service, and will be terminable by one month's notice.

Applications stating age, qualifications and experience, present and past appointments (if any), accompanied by copies of two recent testimonials, and endorsed "Assistant Solicitor" must reach the undersigned not later than February 22, 1950.

Canvassing, directly or indirectly, will disqualify and candidates must disclose in their applications whether to their knowledge they are related to any member or senior officer of the council.

S. BRIGGS,
Town Clerk.

Town Hall,
Bridlington.
January 30, 1950.

CALENDAR

By R. N. HUTCHINS, LL.B.

FOR THE GENERAL ELECTION

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The Calendar is reproduced at p. 31 *ante*. Additional copies, suitable for ready reference, have been reprinted on stiff white card, which are obtainable from the Publishers:

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NOTES of the WEEK

Teachers and the Juvenile Court Panel

At a recent meeting of Birmingham justices the question of appointing teachers to be members of the juvenile court panel was discussed, and there seems to have been a feeling among some teachers that there was prejudice against them in the minds of many justices. This was denied by some speakers, and it does not seem to have been disputed that many teachers with experience and understanding of children would prove an acquisition to the bench.

One magistrate said he did not think there was any discrimination against teachers on professional grounds. Teachers, however, might be called on to report on children who appeared in the juvenile court. To this the clerk added that he knew of no administrative difficulty other than that cases brought by the Education Committee came before the court, and that a position might arise in which children from their own school might appear before a teacher member of the juvenile panel.

These are precisely the difficulties we have always felt to exist. If a teacher-magistrate is a member of the court, dealing with a child from his own school, the child or his parent may feel, no doubt quite wrongly, that the teacher has a down on the child if he is dealt with severely, while if he is treated leniently other people may say it is favouritism. Then there is the question of the teacher employed by a local authority, and his position if he is a member of a juvenile court which has to deal with a case brought at the instance of the employing authority.

These are without doubt the reasons why teachers who may be admirable as justices are not always chosen for the juvenile court panel. There is certainly no reflection on the teaching profession. It is rather the practical difficulty of being unable to adjudicate in a fair number of cases.

Cost of Approved Schools

We are pleased, and not at all surprised, to read that the Select Committee on Estimates has found cause to be well satisfied with the work of approved schools, even if it found it necessary to record a little criticism as well. That there is sound reason to think that over two-thirds of the pupils are really put on the right road, and are likely to do well, is justification for the expenditure of substantial sums of public money. Nevertheless, the general public may well be a little startled to learn that the average cost per pupil is over £5 a week, and will be inclined to make comparisons with the cost of educating a child at a public school. The Select Committee recommends some examination of the question of cost.

What we sometimes wonder is whether the amenities at approved schools are not a little lavish. There is perhaps a danger that boys and girls may leave with the idea that nothing less will do for them in the future, and they may easily be dissatisfied with a home that is clean and orderly but not so comfortable or so well-furnished in various respects as the schools.

There is also the feeling, rather widespread, that children who get into trouble have more done for them than those who do not. We all want the schools to be places where children can be happy and well cared-for, but in these days when economy is rightly being advocated it is not unreasonable to ask that it should be practised in the approved schools. The standard of their work need not suffer.

Another point to which the Select Committee drew attention was the smallness of parental contributions, the average being somewhere about 3s. a week. This seems absurd at a time of full employment and generally adequate wages. The parents concerned are not infrequently to blame, in part at all events, for the need to take the child away from home, and they ought not to have everything made easy and inexpensive for them. Perhaps the magistrates will consider whether they can properly make rather higher orders in future.

Hormone Therapy for Sexual Offenders

The writer of a note in the *Medico-Legal Journal* reviews an article by F. L. Gotta and R. S. Hodge which, we gather, has appeared in *The Lancet* on "Hormone Treatment for Sexual Offenders." As is rightly pointed out, the Criminal Justice Act, 1948, has emphasized the need for considering the mental and physical condition of offenders and this applies particularly to those who persist in sexual offences.

Of course, there are grave sexual crimes which have to be dealt with by exemplary sentences, but there are some offenders who, though a constant nuisance, seem hardly fit subjects for the ordinary forms of punishment—punishments which prove ineffectual as a preventive of further offences. If these could be cured, they would be happier and would cease to be a nuisance.

According to the article quoted, the drastic method of castration is not by any means certain to prove an immediate remedy, because libido may not disappear for a year or two, and in the meantime the offender may be guilty of objectionable behaviour. A certain number of cases have, however, been successfully treated by means of hormones, which have the advantages of quickly suppressing libido and of involving no mutilation. Doses can be given easily at moderate intervals so as to maintain the absence of sexual urges. The treatment should be discontinued only when a restoration of libido is judged to be safe and desirable.

Infants and Their Debts

People who advocate the raising of the age of criminal responsibility are inclined to indulge in the general statement that a person does not become civilly responsible until he is twenty-one. Of course, that is not correct, as an infant may have certain responsibilities and liabilities before reaching that age, though he is protected in some respects by statute as well as by exercise of discretion by the courts.

This was illustrated in the Court of Appeal in the case of *In re A Debtor* (No. 564 *of* 1949) *ex parte Commissioners of Customs and Excise* v. *The Debtor*, on January 23. The case arose out of a claim for purchase tax, and the refusal of the Registrar to make a receiving order in bankruptcy, the debtor being an infant.

The court allowed the appeal, and in the course of his judgment the Master of the Rolls said that the infant was a person accountable and had not accounted, and the amount due had become a recoverable debt. So far as the express language of the Bankruptcy Act, 1914, went there was jurisdiction to make a receiving order, but it was argued that it was unreasonable that an infant should be brought within the bankruptcy law. In his view, if an infant was old enough to engage in trade there was no reason why he should not be subject to the same obligations as adults engaged in trade; there was a discretion in the court which would protect the infant from any injustice.

In the analogous case of a claim by the Crown for income tax an infant could be made accountable (*Ex parte Huxley*, [1916] 1 K.B. 798), and where there was an enforceable debt he thought the Infants Relief Act, 1874, did not protect an infant from being made a bankrupt. The statements to the contrary in the text books were erroneous.

A Policeman's Risks

Every young man or woman who joins the police is well aware of the risks of such an occupation, such as liability to violence, exposure to all kinds of weather for long periods, and, in addition, those dangers which police officers readily incur in voluntary acts of bravery in order to save life.

In the *Medico-Legal Journal* reference is made to an article in the *Lancet*, from which it appears that one form of police duty may involve a hazard not generally known. Policemen who have spent a considerable time on fingerprint work have, in a certain number of cases, been found to have suffered in health, and investigation revealed the cause.

When it is sought to secure evidence by comparison of a person's fingerprints with prints left on objects at the scene of a crime, a fine powder is applied to the objects with a soft brush. Various materials have been used. In 1937 a case of lead poisoning was traced to the use of white lead. In Britain and the United States mercury with chalk (grey powder) is most often used. This was notably the case in Lancashire. Gloves were sometimes worn but masks not always used. Various symptoms of disease arising from mercurialism were observed. As the result of these investigations the use of grey powder for developing fingerprints has been prohibited in Lancashire and an effective substitute has been found.

The Justices of the Peace Act, 1949

In an article on this Act published at p. 60 *ante*, dealing with the effect of s. 20, we stated that justices' clerks in future must be *appointed* before January 1, 1960, to be eligible for appointment without a professional qualification. The position is, of course, that the requisite ten years' experience must have been acquired before that date, and if it has the appointment can be made, subject to the other requirements of s. 20 (4) (*b*), at any time thereafter. For such an appointment to be made before January 1, 1960, the ten years must have been served before the date of appointment.

Ascertainment and Payment of Grants

Various forms, statements and supplementary statements required to be submitted to the Minister of Health under the Local Government (Grants and Payments) Regulations, 1949 (S.I. No. 2401) will be prepared and certified by the chief financial officer of a local authority, examined and certified by a district auditor, and, as provided in r. 3, transmitted to the Minister by the clerk of the authority. Thus, information will be obtained by the Minister for the purposes of estimates and calculations to be made by him under the Local Government Act, 1948, Part I, with respect to Exchequer Equalization Grants, Exchequer Transitional Grants, and the payments to be made to metropolitan boroughs by the London County Council under a scheme, dated August 5, 1948, pursuant to s. 10 of the Act of 1948; information will also relate to amounts payable for the benefit of local authorities under the Act of 1948, Part V, consequent from relief of electricity and transport hereditaments from rating.

Provision in the Act of 1948, s. 15, that ministerial regulations may, *inter alia*, determine "the adjustments to be made for any abnormal treatment of income or expenditure in accounts," lies behind r. 6 of the new regulations. Two paragraphs of r. 6 particularize circumstances in which adjustments will be made, and a third paragraph gives operational effect to the enabling power of the Act so as to cover any other circumstances. Particular circumstances in para. (*a*) of r. 6 relate to an authority's "method of, or practice in, accounting for income or expenditure, or in their practice in making transfers between rate funds and subsidiary accounts or funds, or the funds of trading undertakings," which, with other provisions, is intended to obviate too much, and sometimes, perhaps, too little, "relevant local expenditure" being used in the calculation of "the relevant fraction" which is a substantial determinant of the amount of an Exchequer Equalization Grant payable to a county borough or an administrative county as a whole.

More specific directions are contained in r. 8 with respect to expenditure which may be included in "the relevant local expenditure," and other rules in Part III are concerned with various estimates and calculations by the Minister under the Act of 1948, Part I. In Part IV of the regulations, some polish is applied to procedure for ascertaining and obtaining contributions from the British Transport Commission and British Electricity Authority, and distributing amounts payable therefrom to rating authorities and county councils. Three miscellaneous rules in Part V of the regulations include revocation of the Local Government (Transport and Electricity Payments for 1949-50) Regulations, 1949 (S.I. No. 1103).

THE ADOPTION OF CHILDREN (SUMMARY JURISDICTION) RULES, 1949, S.I. 1949 No. 2397 (L. 32)

The new adoption procedure differs substantially from the old, and while much of it may call for criticism, the object of this article is merely to call attention to the new rules, emphasizing radical changes.

Rule 1 requires an applicant for an adoption order to lodge a statement with the juvenile court for the place where he resides. Under the former law there was also jurisdiction in the place where the infant resided, but after April 1 it will be necessary that the infant shall be actually in the care of the applicant (s. 5 (1) of the Act). The statement of an application (in duplicate) must be accompanied by the necessary written consents, and, where the adopter is not a relative of the infant, a certificate as to the mental and physical health of the infant signed by a registered medical practitioner. The statement of application (Form 1 in sch. 1 to the rules) requires the furnishing of particulars some of which are new, *e.g.*, the country of birth; the notification to the local authority. The new particulars follow on the provisions of the Adoption of Children Act, 1949. The form of consent (Form 2) to be attached to the statement of application is very much more clearly worded than the form it supersedes. It also incorporates a statement identifying the infant named in the form with "the person to whom the birth certificate now shown to me and marked 'A' relates." The attestation of the consent of a person resident in the United Kingdom is dealt with in s. 3 (3) of the Act of 1949. The consent of a person outside the United Kingdom may be attested in accordance with r. 33, which deals with a variety of circumstances. By the said s. 3 (3) a properly attested consent is admissible as evidence of consent without further proof of the signature of the person by whom it is executed.

By r. 2 an adopter who wishes his identity to be kept confidential may apply to the clerk to the justices for a serial number. Thereafter all documents except the adoption order will refer to the applicant by number and not by name, and by s. 3 (2) of the Act any consent withdrawn solely on the ground that the identity of the adopter is not known shall be deemed to be unreasonably withheld.

Rule 4 permits the applicant to lodge his application without personal attendance before the court, except where he has made a previous application to a court in respect of the same infant.

Rule 6 provides for the appointment of a guardian *ad litem* and for the court furnishing him with a copy of the statement of application and the documents attached thereto.

It will be the duty of the guardian *ad litem* under r. 7 to investigate all the matters referred to in the statement of application and to interview every applicant, respondent and referee. In addition, he must investigate and report on the matters set out in sch. 2. New features here include the physical health of the applicants and the physical and mental health of their families. The remaining matters closely resemble those set out in the former rules.

By r. 9 the court at the time of appointing a guardian *ad litem* is required to fix a date and time for the hearing of the application and to issue a notice (Form 3) to every person whose consent is necessary, to the welfare authority, to any adoption society concerned in the application, and, unless he is too young to understand, to the infant. All these become respondents. The notice gives particulars of the time, place and date of the hearing of the application, save where the application is "confidential" under r. 2, in which case the date is not specified. If the respondent does not consent he can apply for a date to be fixed for his attendance. The form embodies a detachable acknowledgment slip for completion and return to the court. That slip also indicates whether or not consent to the adoption is being given.

Rule 10 completely reverses the old procedure, and only the applicant, the infant (if a respondent) and the guardian *ad litem* are required to attend the court. If the infant is not a respondent (see r. 9) his attendance is not required. The personal attendance of a respondent (including the parent of the infant) shall not be required unless there are special circumstances which render his attendance necessary. In the case of a joint adoption, r. 11 permits the court to dispense with the personal attendance of one of the applicants if the notice of application is verified by a declaration made by him and attested by a justice of the peace, or under r. 33, *supra*.

Rule 12 provides for the hearing to be conducted so that, if he so wishes, the identity of the applicant shall be kept confidential, and provision is made for the attendance of the applicant separately and apart from a respondent.

The form of an adoption order is given in Form 4 and that of an interim order in Form 5. The new forms are more clearly worded than the old, but contain much the same particulars. The schedule to the form requires the country of birth of the infant to be included. This is partly a result of s. 1 (2) of the Act, which allows the adoption of an infant who is not a British subject. It is interesting to observe that while the order and all relevant forms relate to the "infant," the schedule to the order refers to the "child." An adoption order must be drawn up on foolscap folio paper, thirteen inches by eight inches, with a margin of not less than one inch on the left side (r. 18), and must be sent, if by post, by registered post (r. 19), to the Registrar General within seven days after the making of the order (r. 17). Where an order is made or refused, or an interim order is made a notice to that effect shall be issued to all parties who were not present at the hearing (r. 21).

Rules 22 and 23 repeat the procedure for the final determination of an application after the making of an interim order, with the innovation that the guardian *ad litem* or any respondent may move if no application is made by the applicant.

Section 12 (8) of the Act allows a court to amend one of its adoption orders by correcting any particulars contained therein and r. 25 gives effect to this new power. The application may be made *ex parte*. This is a convenient power as mistakes in dates and other details occur not infrequently.

By r. 29, the Summary Jurisdiction Acts and rules shall apply to proceedings under the Adoption Acts, as if the statement of application were a complaint and as if any notice issued to a respondent were a summons; but no warrant may be issued for failure to appear in answer to a notice.

Where a local authority or other body is appointed guardian *ad litem*, or is a respondent to an application, its duties and functions may be carried out by a duly authorized officer (r. 30).

The procedure regarding serving of notices must be carefully noted. Notices may be served by delivery to a person personally,

or by leaving at his last known or usual place of abode (whether in England or *elsewhere*) or by sending to him by registered post at that place (r. 31), and in all cases the guardian *ad litem* shall serve the notices. It would appear that service by a person other than the guardian *ad litem* will not constitute effective service.

By s. 3 (4) of the Act, a parent or guardian who has signified his consent to an adoption may not remove the infant from the care and possession of the applicant, while the application is pending, without the leave of the court. Rule 34 states that an application for leave of the court shall be by way of complaint and a copy of the summons issued thereon shall be served on the guardian *ad litem*.

An important transitional provision is found in r. 39, under which an application which is pending at the date of commencement of the rules (January 1, 1950) may be proceeded with under the old rules, so far as is consistent with the provisions of the new Act. The rules do not indicate at what stage an application becomes "pending," but it would be reasonable to include in that category one where an applicant has collected his forms before January 1, but does not lodge them until shortly after. Section 5 (1) of the Act, which prohibits the making of an adoption order unless the infant has been continuously in the care of the applicant for three months, will come into force on April 1, 1950, and will prevent any unduly generous interpretation of the word "pending."

These are the main provisions of the new rules. On the whole they are an improvement on those they replace, but they are open to at least one serious criticism. By their insistence that a respondent must not be required to attend the hearing of an application for an order, they make it often impossible for a court to be absolutely satisfied that the identity of the infant before the court has been established. The only evidence that the court will usually have will be a declaration by the parent that the infant named in the consent form is the infant to whom a particular birth certificate relates. While in the majority of cases this will in practice serve the purpose, there is nevertheless room for mistakes to occur. The declaration does not establish the identity of a person; it merely identifies a name on a form with a particular birth certificate. If anything went wrong between the signing of the consent form and the hearing of the application it would not be detected as the papers would be in order. Only by the parent attending court as formerly he, or she, was required to do can absolute certainty be attached to the evidence of identity of the child.

SOME REFLECTIONS ON AFFORD *v.* PETTIT

By C. W. L. JERVIS

In the *Daily Telegraph* of September 28 last there is reported what appears to be the first case in which the observations of Lord Goddard, C.J., in *Afford* v. *Pettit* (113 J.P. 501) have been acted upon. It will be recalled that in *Afford's* case the respondent in the appeal by way of Case Stated, a borough councillor, was charged with receiving four *lbs.* of coke. The justices for the same borough dismissed the information. On appeal by the informant, the court held that the finding of the justices was "perverse" and observed that where a person holding municipal office in a small borough is charged with an offence of a serious nature, justices should not assume jurisdiction, but should commit for trial. According to the *Daily Telegraph*, *supra*, one W appeared at Camborne (Cornwall), before the justices for the East Penwith petty sessional division of the county, charged with "dangerous driving," contrary to s. 11 of the Road Traffic Act, 1930. The solicitor for the prosecution applied for a summary trial, pursuant to s. 28 of the Criminal Justice Act, 1948. After retiring, the justices refused the application. In announcing the decision of the court the chairman (according to the same report) referred to the "very pungent remarks" of the Lord Chief Justice and said: "In this case today some members of the bench are fairly closely connected with the defendant, both socially and in business. We feel this is a case we cannot deal with here." In the *Daily Telegraph* W was described as (*inter alia*) an inspector of special constabulary and treasurer of the Redruth Methodist Circuit. The defending solicitor said (according to the same report): "Magistrates all over the country are constantly hearing cases in which people they know of are concerned. It is monstrous to say that because he is known to members of the bench they cannot deal with his case. If it had been anybody else you would have dealt with the matter summarily without hesitation." The chairman said he did not appreciate those remarks and the bench considered it better to follow the ruling of the Lord Chief Justice. According to another report, the case was adjourned to a day when depositions could conveniently be taken. On October 27 last the depositions were taken before justices sitting for the same division and W was committed for trial. On January 3, 1950, he was duly arraigned on the same charge before the county quarter sessions and pleaded guilty. In addressing the court of quarter sessions in mitigation of penalty, the defending solicitor (Cornwall enjoys the advantage of an "Open" sessions) recited the above mentioned facts and (*inter alia*) submitted that during the previous six months the defendant had suffered the utmost agony of mind, had been put to very substantial expense and had appeared in court three times. The court of quarter sessions fined W £5 and disqualified him from driving for twelve months. In delivering the judgment of the court the chairman (His Honour Judge J. W. Scobell-Armstrong, C.B.E.) said, according to *The Cornishman* newspaper, that the court sympathized with him (the defendant) very much for having been kept hanging about a long time, owing to the Camborne magistrates not having felt fit to deal with the case. "We cannot understand why the Camborne magistrates did not deal with the matter," remarked His Honour, according to the same report. An application by the prosecuting solicitor for an order for costs was refused.

This interesting case raises some of the implications of the ruling in *Afford's* case. First, in what circumstances should justices decline jurisdiction in such a case? Secondly, how should they do it? The first question appears to be solely within the discretion of the justices, but in a negative sense only. If they decline jurisdiction for any sound reason grounded on the decision in *Afford's* case, it seems unlikely that they will be reversed by *mandamus*; if they accept jurisdiction they may be reversed on appeal or by *certiorari*. The question is, apparently, one of degree to be judged by the justices themselves upon facts of which they have taken judicial notice. Whether the case of a borough councillor charged in his borough with felony is similar in this respect to an inspector of special constabulary charged with "dangerous driving" in a division of a county is a question upon which one cannot properly make any comment. What amounts to "an offence of a serious nature" is also an open question. From the observations of the learned chairman of the Cornwall quarter sessions (which the

writer treats with the utmost respect) it would seem that "dangerous driving" is not an offence "of a serious nature" within the ruling in *Afford's* case.

How jurisdiction should be declined is a somewhat more difficult question. In a case within s. 28 of the Criminal Justice Act, 1948, the justices are, it seems, entitled to decline summary jurisdiction without, one apprehends, giving any reason. Nor are they obliged, under s. 28 (1), to hear any representations by the defendant (*see* 113 J.P.N. 105, where the writer touched on this point), although they may later do so under s. 28 (2). In such a supposed case, however, the justices are only declining their summary jurisdiction and have still to discharge their functions as examining magistrates under s. 25 of the Indictable Offences Act, 1848. If the words of the Lord Chief Justice are taken literally, it is difficult to see how the justices can perform their duty under the Act of 1848. *Ex hypothesi*, they are not a proper tribunal to sit in judgment at all upon a defendant they know so well. How can they properly arrive at an "opinion that there is not sufficient (evidence) to put the accused party on his trial . . ." If they do arrive at that opinion, are they to discharge the defendant and risk offending against the rule in *Afford's* case or are they to disregard the Act of 1848? If the former, a well-known defendant is put to the needless expense of defending himself before a jury and is at a disadvantage compared with his lesser known fellows; if the latter, the examining justices are discharging, at most, a formal ministerial function. In making these observations the writer does not presume, even by implication, to make any criticism of the action of the Camborne magistrates in the case cited. As the defendant pleaded guilty it is manifest that they rightly found a *prima facie* case. The dilemma can only be avoided, it seems, if (1) the justices decline to act in the matter at all and give their reasons, or (2) they cause the case to be heard in their court in their petty sessional division by other county justices from another division. Case (1) leaves the prosecutor to apply to a judge of the High Court for leave to prefer a bill of indictment under s. 2 (2) of the Administration of Justice (Miscellaneous Provisions) Act, 1933, *provided* the offence is indictable. Case (2) applies to all cases, except those arising in a borough before the Justices of the Peace Act comes into operation. It would appear that at present a county justice may exercise in law his jurisdiction anywhere in his county (outside a borough having a separate Commission of the Peace) although in certain cases he may be bound by some undertaking given to the Lord Chancellor on his appointment. In a county, the "impartial" justices can go to the defendant's division and exercise, for the purpose of the particular case, the summary jurisdiction of that division but they cannot go from the county into a borough. One cannot help feeling that probably an offence which is not in any circumstances triable on indictment is not "an offence of a serious nature" within *Afford's* case, although one would hesitate to say that an offence under s. 4 of the Vagrancy Act, 1824 (indecent exposure) falls within the exemption. In any event, is not the safer course, at present, for the justices to refuse *ab initio* to issue their warrant or summons, giving full reasons for that course? Even the issue of a summons requires the exercise of a judicial discretion by one, *ex hypothesi*, barred from acting judicially in the particular case. The prosecutor can either apply for leave to prefer a bill of indictment, as above, or obtain the direction of the High Court by applying for a *mandamus* of the offence is not indictable. By this process, the question is at once brought to a head and the defendant is not put to any additional expense. It is true there is some delay, but during that time the charge is not actually preferred and the proposed defendant is not actively engaged in contesting it.

PREVENTION OF RIVER POLLUTION

Substantial revision and extension of numerous legal provisions affecting the purity of rivers and streams would ensue from adoption of recommendations set out in the recent report of the Rivers Pollution Prevention Sub-Committee of the Central Water Advisory Committee. Replying to a Parliamentary question in December, the Minister of Health intimated that the report was "under consideration." The terms of reference to the sub-committee were "to investigate measures for strengthening the law regarding the prevention of pollution of rivers and streams," and were construed by them as a request for suggestion of such amendments of law as they considered necessary to prevent and check pollution, while having regard to the interests of all parties concerned. Also, the sub-committee understood that they were to consider measures required to ensure that river boards established under the River Boards Act, 1948, should be equipped as soon as possible after their formation with any necessary additional or strengthened powers.

In a preliminary statement, following a resumé of previous investigations by Commissions and Committees, and of the existing law, the present sub-committee remarked upon general acceptance of the view that the condition of rivers and streams in many parts of the country has deteriorated over comparatively recent periods. Among reasons for such deterioration, the sub-committee gave that of many industrialists who are faced with the problem, as an essential function of their undertakings, of disposing of large quantities of trade effluents or waste waters which cannot be received or treated satisfactorily in the local authority's sewers. A check in the progress of schemes for the reception of trade effluent into the public sewers was, the sub-committee admit, imposed by war-time conditions, and full advantage cannot be taken of the Public Health (Drainage of Trade Premises) Act, 1937, under present economic conditions. Evidence also clearly showed that the existing law for the prevention of pollution, particularly the Rivers Pollution and Prevention Act, 1876, has not been effectively enforced, primarily due to the number of authorities authorized to administer it. Revised powers which may ensue from the sub-committee's recommendations are proposed by them to be exercised by the new river boards established under the Act of 1948.

Three points are made by the sub-committee in support of their view that far-reaching improvements will be obtained only by long-term measures. First, the river boards will find it necessary, as one of their first steps, to carry out a factual survey of the rivers and streams in their areas; powers in the Act of 1948 are regarded as sufficient for this purpose, coupled with a recommendation that river boards should be required to submit reports to the Minister of Health as they complete their surveys. Second, a very large programme of works of sewerage and sewage disposal will be necessary; proposals for works received by the Ministry of Health from local authorities are estimated to cost £72 million, and this is by no means the full cost of necessary work. Completion of those works and fulfilment of other features of the requisite programme would, under present conditions and with the competing claims of industry and of other public services, take a good many years. On the third point, the sub-committee state it is evident that

restrictions which would unduly hamper industrial production cannot lightly be imposed when the whole productive capacity of the country must be kept at the highest possible level. Nevertheless, the sub-committee consider that any new code of legislation for the prevention of pollution should give the river boards powers which will enable them, from the outset, to take all reasonable steps to improve the condition of rivers and streams in their areas, and should include, as far as possible, the powers they will need when circumstances allow them to exercise their functions to the fullest extent.

Views of associations of local authorities are touched upon by the sub-committee in connexion with proposed revision of provisions in the Act of 1876, which is recommended for repeal in the process of establishing a comprehensive code of law for prevention of pollution. For instance, the Rural District Councils' Association and the Urban District Councils' Association both suggested that amendments of the Act of 1876, s. 3 (directed to prevention of "any solid or liquid sewage matter" passing into a stream) should not apply to the effluents from sewage disposal works constructed by a local authority with the approval of the Minister of Health; on this, the sub-committee commented: "It must, however, be remembered that approved works may later produce a bad effluent through mismanagement, overloading or from other causes." Opposition of the Association of Municipal Corporations to complete prohibition of discharge of storm water to rivers drew an observation from the sub-committee that "this seemed to be a matter in which a river board might be expected to exercise reasonable discretion," but that "it should be the duty of a local authority so to plan its drainage that normal discharges will not be polluting."

Attention was drawn by the Urban District Councils' Association to the different standards laid down by various river authorities for controlling polluting effluents, and the suggestion made that there ought to be some uniformity, particularly in view of the proposed new river authorities, so that sanitary authorities can work to a uniform standard in connexion with the discharge of effluents from sewage works. Establishment of some general criteria, if only as a guide, for standards of purity for both trade and sewage effluents, was regarded as desirable by the County Councils' Association. At present, the sub-committee noticed, the courts are left to decide whether an effluent is polluting within the meaning of the terms used in the particular Act. Standards recommended by the Royal Commission on Sewage Disposal, though not given any general legal force, have been used to a certain extent by authorities responsible for the prevention of pollution, and authorities such as the Thames Conservancy, Lee Conservancy, the West Riding of Yorkshire Rivers Board and the Lancashire Rivers Board use working rules either based on the Royal Commission's recommendations or determined from their own experience, to guide them in deciding whether effluents are causing pollution, and, if necessary, whether proceedings should be taken.

Agreeing that "the fixing of standards in some form was desirable," the sub-committee considered whether it would be practicable to devise comprehensive standards of quality which could be applied to all kinds of polluting liquids. Scientific assessors from government departments advised that it would be practicable to devise a series of tests, each of which would measure some general property of a polluting liquid, for example, a test for biochemical oxygen demand and a test for toxicity to fish. Subsequent fixing of standards would take account of local circumstances, so that standards might differ very materially from one river to another, or for different parts of the same river. The sub-committee consider that the courts, and the Minister of Health, where his consent is necessary to proceedings, should have regard to the considerations they mention, in the interpretation of the words "offensive or injurious" if no standards have been fixed. Much flexibility in the sub-committee's views with regard to the fixing of standards is reflected in their opinion that "the most suitable method of prescribing standards would be by byelaws, subject to confirmation by the Minister of Health, which would specify the streams or parts of streams to which the standards would relate, and the minimum standards applicable"; modification is suggested to the procedure for making byelaws provided for in the River Boards Act, 1948, ss. 18 and 34.

Weighty arguments are summarized by the sub-committee against and for a requirement that the consent of the Minister of Health should be obtained before proceedings are taken. Among the arguments against, that river boards will be large and responsible authorities employing skilled staff and ought to be trusted to act in a reasonable manner, and that the necessity for obtaining consent means, in effect, that there are two hearings if a case proceeds, which is contrary to the principles of justice; and for, that the Minister has facilities for technical investigation of complex problems of pollution and the terms of the Act of 1876 enable him to take into account technical improvements in matters of treatment, and that neither a local authority nor a local court is competent to weigh the importance of wider interests, as, for instance, where the balance of national interest lies when the effect on a particular industry is being considered. Broadly speaking, the recommendations made are that consent of the Minister of Health should not be required where standards have been prescribed, and that before giving consent, where necessary, the Minister should consider whether the best practicable means of treatment, within a reasonable cost, are being used.

In an exploration of difficulties in connexion with tidal waters, the sub-committee mention suggestions that these have been partly due to absence of definition from the Act of 1876, at the same time illustrating the complexity of the problem by referring to a case in which it was decided that part of a river eighty miles from the sea was "tidal" because its level is affected by the tides, although there is no ebb and flow. Most interests represented before the sub-committee agreed that general enforcement of prevention of pollution powers in tidal waters would be liable to involve industry and local authorities in difficult technical problems and heavy financial burdens. Many cases involving complete reconstruction of the sewerage system were envisaged by the Association of Municipal Corporations, and some recent estimates of the cost of individual schemes showed that the cost throughout the country might well exceed £100 million. While not feeling able to make any suggestion about a basis for defining "tidal waters," the sub-committee recommended that the Minister of Health "should be empowered to extend the general law to tidal waters by order, after a public local inquiry, without being limited to any particular grounds for making the order.

Control of heated discharges into a stream, dealt with among various supplementary provisions in part IX of the sub-committee's report, is another matter in which power is proposed for a river board to make byelaws, in this connexion by prescribing standards of temperature at which liquids may be discharged into any stream or part of a stream. These byelaws would also be subject to confirmation by the Minister of Health, under procedure provided in the River Boards Act, 1948, subject to modification with regard to three months' notice of intention to apply for confirmation and the holding of a public local inquiry if material objections are received by the Minister. Control would, apparently, be more elastic than under, for instance, local Acts of the Essex, Middlesex and Surrey county councils. Discoloration, which is not usually at present "polluting," if innocuous, might be covered by a river board's byelaws.

Consent of the Minister of Health to proceedings for non-use or misuse of suitable means of preventing pollution which are at the disposal of an offender would not be required, leaving a court of summary jurisdiction to decide whether an allegation of failure is sustained. Doubt was expressed by the County Councils' Association whether the customary Crown exemption applied to prevent authorities having a right of entry to take samples of effluents from sewage works at Service establishments; the sub-committee suggested co-operation between departments and river boards, so that authorized officers of the latter are given all reasonable facilities.

Some variations additional to those made by the River Boards Act, 1948, concerning the right to take proceedings in respect of offences, and as regards notice of proceedings, are recommended in the sub-committee's report, prior to recommendations relating to the type of court in which proceedings should be taken. Evidence was received in particular on the question whether procedure in a court of summary jurisdiction should be substituted for, or made available as an alternative to, the present procedure in the county court. No objection to alternative procedure was seen by many interests, including the County Councils' Association subject to a right of appeal to quarter sessions from the court of summary jurisdiction. Invariable commencement in a court of summary jurisdiction was suggested by the Association of Municipal Corporations, while the Rural District Councils' Association (and the West Riding of Yorkshire Rivers Board) preferred the county court, as did the National Coal Board on the ground that this was "a much more suitable tribunal for considering economic and industrial factors of national importance." No difficulties have been experienced by the Thames Conservancy and Lee Conservancy from procedure in a court of summary jurisdiction. Recommendations made, also emergent from consideration of penalties, included:—(*a*) procedure for offences to be before a court of summary jurisdiction or by indictment if a substantial maximum penalty is prescribed; (*b*) the court to have power to impose penalties for a first offence, a higher maximum penalty for a second or any subsequent offence, and a further penalty for every day on which an offence is continued after conviction; (*c*) the court to have power (in lieu of imposing a penalty or in addition to any penalty it may impose) to make an order requiring the offender to abstain from the commission of an offence, and to have appropriate power to make conditions, to suspend or rescind any order, and to give directions for carrying the order into effect; (*d*) a person who is in default in complying with any requirement of an order to be liable to a penalty for every day during which he is in default; (*e*) the provisions in the Act of 1876, ss. 10 and 12, relating respectively to reference to "skilled parties" and to "a certificate granted by an inspector of proper qualifications appointed . . . by the Minister of Health," to be discontinued; (*f*) the river board to be able to institute proceedings in the county court if they do not seek penalties; (*g*) the customary provision to be made for an appeal to the appropriate higher court.

No doubt was felt by the sub-committee that radical improvements of the condition of streams in the more highly industrialized areas must depend largely on the treatment of trade wastes in efficient large disposal works, and the reception of trade wastes for treatment would be very much facilitated by combination of local authorities or co-operation between them, measures that often prove to be impracticable because of differences on terms, pre-occupation with boundary problems, questions of local prestige, or for other local reasons which ought not to be allowed to hold up desirable improvements. Despite dissent of the Urban and Rural District Councils' Association and substantially qualified assent of the Association of Municipal Corporations, the sub-committee recommend that the Public Health Act, 1936, s. 6, should be amended so as to permit the Minister of Health to form a united district for purposes of sewerage and/or sewage disposal, notwithstanding that an application has not been received from any of the proposed constituent authorities. They also recommend that the Public Health Act, 1936, s. 28, be amended so as to permit the Minister, in the absence of agreement between authorities, to require a sewer vested in any sewerage authority to communicate with a sewer vesting in, or to discharge to a sewage disposal works of, another sewerage authority, to such extent, at such points and on such terms as he may consider desirable. There should be, the sub-committee state, a full opportunity for the sewerage authorities, riparian owners and any other interested parties to be heard before any such requirement is made. Increasingly onerous terms and conditions on which local authorities are required to treat certain trade effluents were regarded by the sub-committee as being among matters outside their terms of reference.

A new Act repealing the Rivers Pollution Prevention Act, 1876, and embracing their recommendations for revision and extension of the old Act, in a comprehensive code of law, is recommended by the sub-committee, partly so that river boards will know, at any early stage of their work, the powers they are to administer. Powers regarding prevention of pollution affecting fish are proposed to be removed from the Salmon and Freshwater Fisheries Act, 1923, and made a separate part of a new general Act. The Public Health Act, 1936, s. 30, which is an important check on public health authorities in carrying out works of sewerage and sewage disposal, would not be disturbed; nor would certain other provisions, such as the Act of 1936, s. 259 (1), and water and gas legislation intended as protection respectively for and against undertakers in those industries. Repeal of local Act provisions was regarded as impossible, but the sub-committee mentioned that these might be brought into line with new general law by ministerial orders under the River Boards Act, 1948, sch. 3. Thus, in matters of comparative detail the sub-committee showed the same care and perspicuity as in many of considerable national importance, altogether investing their report with high value commensurate with the wide knowledge and industry deployed in investigation, assembly of information and presentation of findings.

PERSONALIA

APPOINTMENTS

Mr. Alan B. Bateman, deputy clerk of Beddington and Wallington, has been appointed town clerk in place of Mr. C. Peter Clarke, LL.M., who has been appointed town clerk to the city of Peterborough. Mr. Bateman, who is thirty-four years of age, has had previous service with the Heston and Isleworth and Barnes corporations. He served in the R.A.F. during the war.

Mr. A. S. Pointing, superintendent chief clerk of Somerset constabulary, has been appointed assistant chief constable of Somerset in place of Mr. J. A. Taylor, M.B.E., who was recently appointed chief constable of Leicestershire. Mr. Pointing, who is fifty-eight, joined Somerset constabulary as a constable in 1920, became a sergeant in 1929, inspector in 1933, and superintendent in 1939. For his services during the war as a civil police liaison officer he was awarded the King's Police Medal and the American Medal of Freedom.

Mr. John L. Powell, LL.B., has been appointed assistant solicitor to the city of Norwich. Mr. Powell was articled to the town clerk of Sheffield and passed his final examination in 1949. He is twenty-four years of age and from 1943 to 1946 served in the R.N.V.R. as a sub-lieutenant.

RETIREMENT

Mr. G. T. Fletcher, clerk to the Friern Barnet urban district council, is retiring in June of this year. Mr. Fletcher has held this position since 1924 and before this time he held appointments at Trowbridge and Watford. During the war he was A.R.P. controller for the district and also hon. food executive officer until 1949.

WEEKLY NOTES OF CASES

KING'S BENCH DIVISION

(Before Lord Goddard, C.J., Byrne and Morris, JJ.)

TAYLOR *v.* CIECIERSKI

January 25, 1950

Petrol Control—Allegation of commercial petrol in tank of private vehicle—Sample taken by police officer—Analysis—Evidence of public analyst—Prima facie case—Motor Spirit (Regulation) Act, 1948 (11 *and* 12 *Geo.* 6, *c.* 34), *s.* 2 (1).

CASE STATED by Kent justices.

At a court of summary jurisdiction at Bromley an information was preferred by the appellant, Joseph Taylor, a police constable, charging the respondent, Victor Herbert Ciecierski, with being the owner of a motor vehicle which had present in its tank a quantity of commercial petrol, contrary to s. 2 (1) of the Motor Spirit (Regulation) Act, 1948.

On May 17, 1949, the appellant stopped the respondent and tested petrol from the tank of his private motor-car with a re-agent paper. That test, which was repeated a second time, satisfied the appellant that the petrol was, *prima facie*, commercial petrol. The appellant then took samples of the petrol and one of those samples was analysed by a public analyst. The analyst stated in evidence before the justices that the test which he applied yielded a positive result for diphenylamine, and that he was of opinion that the sample consisted of or contained commercial petrol. In cross-examination, however, he said that theoretically the same result could be produced by derivatives of diphenylamine, being substances of the same group and of very similar composition, but that such substances would not normally be found in petrol; that there would be no purpose in putting them in it; and that, while it was not unlawful for such substances to be supplied to the public, they were uncommon and not easily obtained. The appellant contended that no *prima facie* case had been made against him.

The justices, while accepting entirely the evidence of the analyst, were of opinion that the intention of the Motor Spirit (Regulation) Act was that there would be prescribed ingredients which, when added to motor spirit, could conclusively be proved to be present in it by a subsequent analysis, and that the evidence of the analyst in the present case regarding the presence of diphenylamine was inconclusive. The justices took the view that, where a charge of such a serious nature was brought under the Act, and the case for the prosecution depended solely on the contents of a sample of motor spirit, the sample should be capable of analysis with certainty, and evidence of that standard regarding the presence of commercial petrol should be submitted to establish a *prima facie* case. The justices, therefore, held that no *prima facie* case had been established, and dismissed the information. The prosecutor appealed.

Held, that, in view of the analyst's evidence, the case must be remitted to the justices with the instruction that there was a *prima facie* case calling for an answer.

Counsel: *The Solicitor-General (Sir Frank Soskice, K.C.)* and *H. L. Parker*, for the appellant; *Hughes, K.C.*, and *J. F. Reuben*, for the respondent.

Solicitors: *Treasury Solicitor*; *Bryan O'Connor & Co.*

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

BRYAN *v.* FORROW

January 24, 1950

Road Traffic—Driving uninsured car—Third party risks—Persons permitted to drive—"Proposer or his paid driver."

CASE STATED by the appeals committee of Essex Quarter Sessions.

At a court of summary jurisdiction at Witham an information was preferred by Gordon Parker Forrow ("the prosecutor"), charging William Alfred Bryan ("the defendant") with using a motor-car when there was not in force in respect of that car a policy of insurance against third party risks, contrary to s. 35 (1) of the Road Traffic Act, 1930. The justices convicted the defendant, who appealed to quarter sessions.

The defendant had undertaken to transport certain goods which belonged to one Platt. The defendant usually drove his lorry himself, but he was unable to do so on the day in question, and, accordingly, he arranged with Platt that a driver in the employment of Platt, named Morton, should drive the lorry, and that he (the defendant) would reimburse Platt for the day's wages which Platt would pay to Morton. While Morton was driving the lorry, he was stopped by the police. According to the certificate of insurance, the persons allowed to drive under the policy were "the above-named proposer [the defendant] or his paid driver." It was contended for the prosecution that, as Morton remained the general servant of Platt, he was not the defendant's "paid driver" within the meaning of the policy, and that, accordingly, an offence had been committed. Quarter sessions allowed the appeal. The prosecutor appealed.

Held, that the true construction of the words "the above-named proposer or his paid driver" was "the above-named proposer or any professional driver driving for him"; that the insurance company would have been liable had there been an accident while Morton was driving; and that, therefore, the defendant was covered by the policy and no offence had been committed by him. The appeal must, therefore, be dismissed.

Counsel: *T. F. Southall* for the appellant; *Alwin* for the respondent.

Solicitors: *Sharpe, Pritchard & Co.*, for *Arthur Morgan*, Chelmsford; *Lewis Lloyd & Co.*

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

(Before Lord Goddard, C.J., Lynskey and Sellers, JJ.)

J. LYONS & CO., LTD. *v.* HOME SECRETARY

January 18 and 24, 1950

Emergency Legislation—Requisitioning—Land—Diminution in annual value—Diminution ascribable to work done during period of requisition—Continuing effect—Compensation for period between de-requisitioning and re-instatment—Removal of air-raid shelter—Compensation (Defence) Act, 1939 (2 *and* 3 *Geo.* 6, *c.* 75), *s.* 3 (3)—*Requisitioned Land and War Works Act*, 1948 (11 *and* 12 *Geo.* 6, *c.* 17), *s.* 11 (2).

SPECIAL CASE stated by arbitrator.

On December 14, 1942, possession was taken by the Crown, under reg. 51 of the Defence (General) Regulations, 1939, of the basement of premises in Oxford Street, London, belonging to the claimants, J. Lyons and Co., Ltd. During the period of requisition brick walls were built on, and other works were done to, the premises for their adaptation as an air-raid shelter. On July 26, 1945, possession was returned to the company at the end of the requisitioning. On January 3, 1946, St. Marylebone Borough Council, acting on behalf of the Crown, began the removal, so far as practicable, of those works. On May 28, 1946, they completed that operation, having restored the basement so far as practicable to its original condition. The question for the court was whether the company was entitled for the period from July 26, 1945, to May 28, 1946, to compensation under s. 3 (2) of the Compensation (Defence) Act, 1939, in respect of the diminution of the annual value of the premises ascribable to the work done to them while under requisition.

By s. 1 of the Act of 1939, where land has been requisitioned and any work has been done on the land on behalf of the Crown, compensation is, subject to the provisions of the Act, to be payable in respect of, among other things, the work done. By s. 3 (1) the compensation is payable only if the annual value of the land has been diminished by the doing of the work. By subs. (3): "If, at any time after compensation . . . has become payable by reason of the doing of any work on any land," the Crown "causes the land to be restored, so far as practicable, to the condition in which it would be but for the doing of the work . . . the period in respect of which compensation is payable . . . by reason of the doing of the work shall end with the date immediately preceding the date on which the restoration is completed . . ."

By s. 11 (2) of the Requisitioned Land and War Works Act, 1948: "Nothing in s. 3 of the Act of 1939 . . . shall apply . . . to damage to land occurring while possession of the land is retained."

Held, that "damage to land" in s. 11 (2) of the Act of 1948 included damage attributable to the doing of work on the land and meant physical damage to the land or buildings on it. If such damage occurred while possession was in the Crown, s. 3 of the Act of 1939 gave no right to compensation for it, even though its effects persisted after possession had been given up. The answer to the question submitted was, therefore, that the claimant company were not entitled to the compensation which they sought.

Counsel: *Cyril Salmon, K.C.*, and *J. P. Ashworth*, for the claimant company; *H. L. Parker* for the Minister.

Solicitors: *Bartlett & Gluckstein*; *Treasury Solicitor*.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

MISCELLANEOUS INFORMATION

INTERNATIONAL UNION OF LOCAL AUTHORITIES—BRITISH COMMITTEE

Mobile Consulting Clinic for Maternity and Child Welfare of the Regional Office for Social Security in Paris

(The following is a translation of an article published in "Techniques Hospitalières of August-September, 1949.")

The Regional Office for Social Security in Paris, in consultation with the Department of the Seine-et-Marne and the Public Health Authorities of this Department, instituted, in twenty-nine communes of the cantons of Moret, Fontainebleau, Nemours, Lorrez-le-Boccage, La Chapelle-la-Reine and Le Chatelet-en-Brie, a mobile centre for maternity and child welfare.

The object sought was to provide, in the small rural parishes, a mobile health centre enabling all the examinations to be provided.

These compulsory examinations are as follows :—

(1) Pre-nuptial examination ; (2) pre- and post-natal examinations—medical examination, obstetric examination, X-ray examination, blood analysis, analysis of urine ; (3) medical supervision of the father ; (4) medical supervision of the baby from birth to the sixth year ; (5) medical supervision of the nursing mother.

It is true that the provision of a mobile vehicle is not an innovation made by the Social Security Authorities. Its originality resides in the conception of this centre as a really complete one for maternity and child welfare provided with a modern technical equipment. It is the first of its kind in France, and perhaps in the world.

Delegates from many different countries have visited it, namely, from Great Britian, Czechoslovakia, Indo-China, Hollard, etc.

The vehicle is maintained at a constant temperature of 68 degrees F. Its layout provides for laboratory examinations.

During a period of six months, a group of twenty-nine communes have had experience of the service.

The enthusiasm of those who come for consultations and the reception received from the municipalities and from the population in general have encouraged the Paris Regional Office of Social Security to enlarge its field of action. After six months the number of communes visited was increased to sixty-four, and covered the radius of twenty miles.

Moret, which is in the centre of the district, has been chosen as the base for this public health vehicle. The district has a population of 38,964 inhabitants and includes 1,500 children from 0-3 years, 950 children from 3-6 years, 280 pregnant women, 250 young mothers, 120 nursing mothers.

Arrangements are made for a monthly consultation in each commune on a fixed day. The itinerary covers a period of four weeks. According to the importance of the localities, their distance and the number of persons desiring advice, visits are made to three or four communes daily.

The average daily journey by the vehicle is twenty-five miles.

At the end of the month, the days which remain beyond the fourth week enable compensation to be made for holidays, during which consultations cannot take place and also enable the staff to carry out the administrative work and to see to the maintenance of the vehicle.

Consequently, the babies are guaranteed a monthly supervision.

In accordance with the ordinance the supervision of the children is arranged as follows :—

(1) Monthly visit in the first year ; (2) two-monthly visit in the second year ; (3) three-monthly visit in the third year ; (4) six-monthly visit from the fourth to the sixth year.

Pregnant women are given three obstetrical examinations :—

(1) The first in the third month ; (2) the second in the sixth month ; and (3) the third in the eighth month of pregnancy.

They are also given two post-natal examinations :—

(1) A medical examination towards the eighth week following birth ; (2) an X-ray examination during the fourth month.

But, it should be mentioned that very frequently, and outside the legal periodicity of visits, many examinations are carried out for the babies at the breast, for the future mothers and for the nursing mothers who come along of their own accord.

The Department has provided the doctor ; the Regional Office for Social Security provides the state-registered nurse, the lay secretary and the driver of the vehicle. Further, in each commune, the departmental or rural social welfare assistant attends on the occasion of the visit of the public health vehicle, thus ensuring an indispensable social liaison between the doctor of the mobile centre and the family.

At the hours provided in the itinerary, the public health vehicle draws up before the waiting room, which is generously placed at the disposal of the mothers by the municipality concerned. This is generally in a room at the town hall, for which the municipality also provides cleaning and heating.

The social assistant or a female officer of the municipality undertakes the sorting out of suspected children before consultation begins. On the arrival of the vehicle, the administrative secretary takes charge of this room. She carries out there the registration of the new mothers and opens a medical dossier for each. As regards those who are already registered, she gets out the medical case papers already in existence.

During the six month period, the mobile public health vehicle carried out 451 consulting sessions, covering a travelling distance of 3,305 miles. These sessions were open to all the inhabitants of the communes, whatever might be their character, namely, persons socially insured in industry, persons insured in any agricultural industry, members entitled to benefits from the Societies for Mutual Help, farmers, artisans, tradesmen and persons without any profession.

By the co-operation of the various social security authorities or those for mutual help in the Department, the following examinations and consultations with regard to babies were carried out :—

1,529 examinations, 0-1 year of age ; 830 examinations from one-two years ; 595 examinations from two-three years ; 775 examinations from three-six years ; 113 X-ray examinations, and various others.

During the consultations with the mothers, the following examinations were carried out :—

79 first examinations ; 140 blood tests ; 154 X-ray examinations ; 42 second examinations ; 42 third examinations ; 32 post-natal examinations ; 15 examinations of fathers ; 10 examinations of nursing mothers, *i.e.*, a total of 4,364 examinations.

The consulting doctor is a valuable help to the family doctor. The preventative supervision which he carries out enables him to detect in good time various troubles which might have been overlooked by the family and thus recommend a person consulting him to go to his family doctor.

The results of the year's work carried out in Seine-et-Marne exceeded all the expectations of the Regional Authority. Consequently, the council of administration decided to provide two new mobile maternity and child welfare centres in two other departments.

THE INCORPORATED ASSOCIATION OF RATING AND VALUATION OFFICERS

Mr. F. A. Amies, B.A., F.C.I.S., F.R.V.A., Barrister-at-Law, addressing a meeting of the Sussex Branch and Students' Society at Eastbourne on February 5, 1950, on the powers and duties of rating authorities under the Local Government Act, 1948, stated that they (the rating authorities) should assume they had wide powers of making proposals unless and until it is decided otherwise by the High Court. Section 33 (2) of the Act establishes their powers, was not a limiting subsection, nor should it be read as such. He put the question "why if rating authorities were not meant to have functions under the Act, are they entitled to so many copies of notices including Notice of Appeal even though they may not be the proposer or the objector." Under s. 49, the rating authority can, if it appeared before the Local Valuation Court, appeal against that Court's decision to the Lands Tribunal. He emphasized that rating authorities had a greater stake than any other party in the correctness of the valuation list. Their various powers under the Act were given to be used, and showed that they were not to be merely recipients of information.

* * *

At a meeting of the East Midlands branch held on January 21, 1950, Mr. F. L. Othick, Secretary of the Association, introduced a discussion on the more recently issued Regulations (Nos. 2310/2313 of 1949) under the Local Government Act, 1948.

Amongst the questions raised was that which referred to continuing, perhaps long-term, liabilities of assessment committees for such items as compensation for loss of office, and the effect on the Dissolution Fund to be kept by the "appropriate rating authority." It appeared that if these funds were not to be open for many years some solution would have to be found in regard to such liabilities.

It was submitted that under reg. 6 of the Rating Appeals (Local Valuation Courts) Regulations (S.I. 1949 No. 2312) which prescribes who can represent a rating authority at the hearing of an appeal, "other officer duly appointed" would necessitate a formal appointment of a particular officer or officers for production, if necessary, in the Court.

The General Proposal Form (Form A in the schedule to S.I. 1949 No. 2311) made provision for a person aggrieved by the valuation of a building or portion thereof as a single hereditament, and it was suggested that where the reverse applies and the person is aggrieved by the separate assessment of parts, he could appeal against the value ascribed to the property by way of this form of assessment to secure a reduction, and challenge the legal correctness if the facts supported this form of splinter valuation.

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 11.

PETROL EXPLOSION IN SEWER AND THE SEQUEL

At Bolton Borough Magistrates' Court on January 9, 1950, a limited company was charged with two offences under the Petroleum (Consolidation) Act, 1928.

The first charge laid under s. 1 alleged that, on a stated date, the company being the holder of a licence granted by the local authority to keep petroleum spirit, had contravened two of the conditions of the licence, *viz.*: Condition No. 17—"Petroleum spirit shall not be allowed to escape into any drain or sewer," and Condition No. 19, "The licensee and every person employed in or about the premises shall take all due precautions for the prevention of accidents by fire or explosion and for preventing unauthorized persons from having access to the petroleum spirit and shall abstain from any act which is liable to cause fire or explosion."

The second charge laid under s. 2 alleged that the company on the same date had failed to cause to be kept posted on the premises a notice setting out the conditions contained in the licence.

For the prosecution it was stated that at the defendant company's garage there was an electrically operated petrol pump controlled by an automatic switch. On the date of the offence there was an electricity cut in the afternoon and the current was restored about 5.30 *p.m.* On the restoration the pump began to operate and petrol escaped into the sewers. Some twenty minutes later an explosion occurred. Manhole covers were lifted and subsequent examination of the sewers showed that considerable damage had been caused. It was estimated that twenty-five gallons of spirit had escaped.

For the company, pleas of guilty to both charges were entered and it was stated that the first offence was the result of an unfortunate combination of circumstances. There was a defect in that the controlling rod connected to the cut-off switch did not operate although it appeared to do so. As regards the second offence the notice had been exhibited, but had been removed while the premises were being painted.

COMMENT

Section 1 of the Act which prohibits the keeping of quantities of petroleum spirit in excess of three gallons without a licence provides that conditions may be attached to the licence and that contravention of the licence renders an offender liable on summary conviction to a fine of £20 for every day on which the contravention occurs or continues.

Petroleum spirit is defined in s. 23 of the Act as being such petroleum as when tested in the manner set forth in Part II of sch. 2 to the Act gives off an inflammable vapour at a temperature of less than seventy-three degrees Fahrenheit.

Section 2 of the Act provides that, outside London, the district council shall be the local authority empowered to grant licences to keep petroleum spirit and subs. 4 of the section enacts that where conditions are attached to any petroleum spirit licence, a notice setting out the conditions must be kept posted on the premises in such a position as to be easily read by employees and provides for a fine of £5 for every day on which there is a failure to comply with the requirement.

(The writer is indebted to Mr. J. H. Whittingham, clerk to the Bolton Borough Justices, for information in regard to this case.) R.L.H.

No. 12.

BILKING A TAXI DRIVER AND OBTAINING MONEY BY FALSE PRETENCES

A twenty-three year old engine assembler appeared at Chipping Norton Magistrates' Court on December 17, 1949, charged with incurring a debt or liability by means of fraud other than false pretences, contrary to s. 13 (1), Debtors Act, 1869. He was remanded in custody until December 22, when two further charges were preferred of obtaining £3 and £4 by false pretences, contrary to s. 32 of the Larceny Act, 1916.

The defendant was committed to Oxfordshire Quarter Sessions for trial, and the hearing took place on January 3, 1950.

For the prosecution, it was stated that the defendant obtained, in September, a loan of £3 from a publican by saying that his brother-in-law had been killed in an accident and that he wanted money for the fare; this was untrue.

In November, defendant hired a taxi driver at night to drive him home. During the journey defendant spoke at length of his love for playing church organs and when they reached a certain house he asked the driver to stop and said he was going to fetch the money for the fare, which amounted to 20s., and gave a fictitious name. He made as if to go into one of the cottages and invited the driver to go and have a cup of cocoa. The driver waited half an hour for the defendant to return, but as he failed to do so he reported to the police.

A few days later the defendant called on the local vicar and said that his mother had just died at Edinburgh. His wife, he said, had gone to Scotland, taking his post office savings book with her and he had no money to pay the fare. The vicar erroneously believed the story to be true and lent the defendant £4.

The defendant, who pleaded guilty to all charges, asked for three other offences, two of false pretences and one of attempted false pretences, to be taken into consideration. He stated he had borrowed the money, which he had every intention of paying back, to help his young lady, who had just been turned out of her home.

The defendant, who had nine previous convictions for theft, shop-breaking and assault as well as for minor offences and was then on probation for the theft of a bicycle in Oxford, and was stated to be earning £6 13*s.* a week, was sentenced to twelve months' imprisonment.

COMMENT

The very speedy justice meted out to this man is noteworthy and commendable.

It will be remembered that s. 13 (1) of the Debtors Act, 1869, enacts that an offence is committed by a person who, in incurring any debt or liability, has obtained credit under false pretences or by means of any other fraud and for this the maximum penalty is twelve months' imprisonment.

Other offences under s. 13 are not triable summarily but by virtue of s. 24, Criminal Justice Act, 1925, the offence created by s. 13 (1) is triable summarily with the accused's consent.

The recent decision of the Court of Criminal Appeal in *R.* v. *Perry* (1946) 110 J.P. 100 cleared up the question of whether a charge under s. 13 (1) of obtaining credit under "false pretences or by means of other fraud" was bad for uncertainty: Stable, J., in delivering the judgment of the court, stated that such a charge was not bad and that it was, in the opinion of the court, precisely covered by r. 5 (1) of the rules under the Indictments Act, 1915.

This rule, which, it will be recalled, forms part of sch. 1 to the Act provides that: "Where an enactment constituting an offence states the offence to be the doing or the omission to do any one of any different acts in the alternative, or the doing or the omission to do any act in any one of any different capacities, or with any one of any different intentions, or states any part of the offence in the alternative, the acts, omissions, capacities, or intentions, or other matters stated in the alternative in the enactment, may be stated in the alternative in the count charging the offence.

(The writer is indebted to Mr. S. G. Farrant, clerk to the Chipping Norton Justices for information in regard to this case.)

R.L.H.

PENALTIES

Cardiff Quarter Sessions—January, 1950—uttering a forged bank cheque for £10—eighteen months' imprisonment. Defendant, a twenty-nine year old married woman with a seven months old child, was stated by the recorder to have committed twenty crimes in the last four or five years.

West Bromwich—January, 1950—selling lamb at a price exceeding the maximum—absolute discharge. To pay £4 13*s.* costs.

West Bromwich—January, 1950—aiding and abetting the above offence—fined £5. First defendant was the owner and the latter the manager of a shop in which a joint of lamb was sold for 4*s.* 8*d.* The purchaser was dissatisfied and took the joint to the food office. It was then returned to the shop and weighed in the presence of the manager and the controlled price should have been 3*s.* 8*d.* The stipendiary magistrate dealt with the offence on the basis that a *bona fide* mistake had occurred.

West Riding Quarter Sessions—January, 1950—(1) driving a car when under the influence of a drug, (2) driving a car dangerously—(1) fined £30, (2) fined £5. To pay £50 costs, disqualified from driving for two years. Defendant a twenty-nine year old doctor.

Salisbury—January, 1950—buying 116 fresh eggs when not a licensed buyer—fined £5. Defendant a restaurant proprietor.

Salisbury—January, 1950—selling a jam sponge at a price exceeding the permitted maximum (two defendants)—fined £3 3*s.* To pay £3 3*s.* costs. Defendants, husband and wife, proprietors of a cafe. Permitted price of the jam sponge was 2*s.* 1½*d.*, sale price was 2*s.* 9*d.*

Oxford Juvenile Court—January, 1950—(1) being an uninsured user of a motor cycle, (2) carrying a passenger while the holder of a provisional licence. Fined a total of £1. Defendant a boy of sixteen.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1. Adoption of Children—*Illegitimate child—Adoption by mother and her husband, aged twenty and twenty-one.*

Does not the answer to P.P. 1 at p. 38 *ante*, fail to give effect to the provisions of the Adoption of Children Act, 1949, s. 2?

SAGE.

Answer.

The question was sent to us, and answered by post, before the new Act came into force, and indeed before it was available. It was then correct, but we ought to have altered our answer for the purpose of its appearance after the new Act came into force.

The answer should now be that A and B can adopt jointly by virtue of s. 2 of the new Act.

2. Children and Young Persons—*Street trading—Byelaws—Employment at market stalls.*

A street trading byelaw made under s. 20 of the Children and Young Persons Act, 1933, and in force in this city is as follows: "No girl under the age of eighteen and no boy under the age of eighteen shall engage in street trading in any street or public place within the area of the council of the county borough of . . . ."

Attention is drawn to the definition of "street trading" in s. 30 of the 1933 Act and to the case of *Vann* v. *Eatough* (1935) 99 J.P. 385, and *Stratford Co-operative Society Ltd.* v. *East Ham Corporation* (1915) 79 J.P. 227, particularly the observations of Lush and Rowlatt, JJ., in the latter case. There is in the city a market which is held in a street under circumstances which for all purposes material to this case are similar to those in the *Eatough* case. The question arises whether in order to justify a prosecution under the above byelaw it is necessary to prove that a person under the age of eighteen actually sold an article to a customer, as in the *Eatough* case. Do you agree with the view that a person is "engaged in street trading" if he is employed in and about the business of the market stall (*e.g.*, in washing vegetables, wrapping up parcels, etc.) even though he does not actually sell articles to a customer with his own hand?

A. HEMP.

Answer.

We agree. The *dicta* of the two majority judges in the *East Ham* case support this conclusion, as does the reason of the matter, which was elaborately explained in that case.

3. Housing Act, 1936—*Demolition order—House inhabited by new occupier—Whether fresh notice required.*

Proceedings are about to be taken before my justices under s. 155 (1) (2) of the Housing Act, 1936. A demolition order in respect of four cottages became operative before the war, and the local authority then served on the then occupiers of the four cottages the appropriate notices requiring them to quit the cottages. On the outbreak of war the owner was permitted, by a series of half yearly licences from the local authority to let the cottages in question, and during the period of the war the occupiers changed. The condition of the property deteriorated, and the owner requested the local authority to withdraw their licences, which they did, and have been pressing the owner to take proceedings under the above section, and they state that on the revocation of their licences the original position was restored, and that there is no need for them to serve any further notice on the present occupiers. Your views would be appreciated as to whether the local authority are correct in the view they take, or whether it is necessary for a further notice to be served on the present occupiers. The local authority decline to do this, on the ground that it might conceivably make the original demolition order inoperative.

APHA.

Answer.

Whether there is anything in the local authority's reason as stated in the last sentence of the query is doubtful, but their proceedings as a whole are so tainted with illegality (which is not to say that they acted otherwise than sensibly and properly, in an impossible situation) that it is hard to be sure what the High Court would say if the case reached it. However, as things stand it is clear that the present occupier of each cottage is "any person [who] after the date on which the notice requires the building to be vacated . . . is in occupation of the building." It will be seen that s. 155 does not require any notice to such a person, nor does it require the complaint to follow form 2 scheduled to the Act of 1838, which form recites that the person to be evicted has had a notice. It is only the warrant which must follow form 3 scheduled to the Act of 1838, or a form to the like effect, and form 3 says nothing about the preliminary steps. In our opinion, therefore, your bench have no option in the present case; they cannot refuse or delay a warrant upon the ground that the persons to be evicted have had no notices.

4. Landlord and Tenant—*Extension of security of tenure under Acts of 1946 and 1949.*

The town clerk is receiving from the clerk to the rent tribunal notices of decisions extending security of tenure given by the tribunal under s. 11 of the Landlord and Tenant (Rent Control) Act, 1949. The previous determinations under the Act of 1946 are, of course, entered in the register kept by the local authority, but there appears to be no provision for registration of these subsequent determinations as to security of tenure. It is observed that s. 11 of the Act of 1949 provides that the tribunal shall inform the parties of the determination, but does not expressly extend to this further determination the obligation to register under s. 5 of the Act of 1946 and, in fact, omits any requirement (similar to that in ss. 2 (2) and 3 (3) of the Act of 1946 in relation to determinations on contracts) that the local authority be notified. Moreover, neither the regulations of 1949 (S.I. 1096) nor circular 59/49 issued by the Ministry of Health mentions any obligation to register these determinations of security of tenure. I shall be glad to have your opinion whether these determinations are registrable by the local authority and, if so, in what way the registration should be made.

ACOS.

Answer.

There is no provision requiring their registration. They are notified to the parties and they affect the parties alone, unlike a rent fixed by the tribunal which operates *in rem*, and is required for that reason to be registered. Indeed, the Act of 1946 and the regulations thereunder do not say (as the query suggests) that a reduced time fixed under the proviso to s. 5 of the Act of 1946 is to be registered.

5. Licensing—*Permitted hours fixed in a continuous period of five hours—Meaning of "break" as used in s. 1 of the Licensing Act, 1921.*

Is it possible for a registered club, desirous of opening for the supply of intoxicants for less than the permitted hours, namely five hours, to open between 5 *p.m.* and 10 *p.m.* each weekday?

How is this effected by the "break" period?

N.O.L.F.

Answer.

In our opinion, permitted hours on weekdays may be fixed by the rules of the club so as to cover a continuous period of five hours between 5 *p.m.* and 10 *p.m.* Section 1 of the Licensing Act, 1921, is not in practice construed so as to compel a registered club to fix morning hours of which they do not want to avail themselves merely for the purpose of giving meaning to the word "break" as it appears in the section.

6. Magistrates—*Practice and procedure—Indictable offence to be tried by jury—Taking of depositions—Reading charge to defendant.*

I have recently had in this court a case on which the defendant was charged with twenty-one charges of forging, uttering and obtaining. As is the normal practice in this court, and what I have always believed to be the law in the matter, all the charges were read over in full to the defendant at the commencement of the hearing. The witnesses were then called and their depositions taken in the usual manner. At the end of the evidence of the last witness I again read over all the charges in full and gave the defendant the usual caution. Counsel appeared for both the prosecution and the defence and at the end of the proceedings the defence counsel pointed out that in his opinion it was not necessary to read over all the charges in full a second time.

I shall be glad of your views on this matter and if in fact it is not so necessary I should like the authority for this.

SIG.

Answer.

The charge or charges must certainly be read to the accused before he is cautioned and asked if he wishes to say anything or give evidence, or call witnesses. This is explicitly required by s. 12 (2) of the Criminal Justice Act, 1925. There is no requirement that the charges are to be read to the accused at the outset of the proceedings before examining justices, and in many courts it is never done.

It is desirable, as well as necessary, to read and explain the charges as required by s. 12, because these may very well differ from the charges originally preferred; the justices commit for whatever indictable charges are supported by the evidence given before them.

7. Pleasure Grounds—*Expenditure on approach road.*

The urban district council own a recreation ground, the principal access to which is *via* an unmade private street. The council also own a length of the frontage to this street. The making up of the street is desirable, but impracticable at the present time because the street will be included in a major sewerage scheme which is likely to be carried out by the council within the next few years. The Private Street Works Act, 1892, is in force in the district. In your view could the council execute any temporary surface works to the street, for the convenience of patrons of the recreation ground, and do this work as owners of part of the frontage, without prejudicing the council's position in the future making up of the street under the Private Street Works Act? AWK.

Answer.

Yes, in our opinion. The appropriate resolution of the council and the entry in their minutes will no doubt make it clear that the council are spending the money as landowners and not as highway authority. We admit that express statutory authority for the expenditure is lacking, but we do not consider that there is serious risk of audit action so long as the expenditure is carefully limited, if what is needed year by year to enable the public to get access to the ground.

8. Road Traffic Acts—*Removal of disqualification—Motor Spirit (Regulation) Act, 1948, s. 7—Can more than one application be made?*

A was on February 19, 1949, convicted on a charge of using commercial petrol in a private motor car. He was fined and disqualified from holding a driving licence for twelve months, his motor car licence was also disqualified for similar period. On September 3, 1949, A applied to the same court for the removal of the disqualifications. The applications were refused. It is contended that A cannot again apply to the court for the removal of the disqualifications in view of the wording of s. 7 of the Act, which differs from the wording of s. 7 of the Road Traffic Act, 1930: this provides for a second application provided this second application be not entertained if made within three months of the date of the refusal.

Surely, if it was intended under the 1948 Act that a second application could be made it would have been provided for in the section. Your ruling on the matter would be appreciated. J. MOBILE.

Answer.

We agree that the wording is materially different from that in the 1930 Act, but the provision is an enabling one and should be construed liberally. We think that more than one application can properly be made. The court in giving its decision on an application is required to have regard to the circumstances at the time of the application. The circumstances may well vary considerably during the period of disqualification and we do not think, therefore, that the section should be read so as to prevent a disqualified person from applying more than once regardless of possible material changes in circumstances which might well affect the court's decision on a second or subsequent application.

9. Road Traffic Acts—*"Public road"—Regulation and Licensing Regulations, 1949, reg. 4 (2)—Road on railway premises—Does the regulation apply?*

Several motorists in this division have been summoned by the police for a breach of reg. 4 (2) of the Road Vehicles (Registration and Licensing) Regulations, 1949, *viz.*, "for failing to carry on a motor vehicle in the prescribed manner, the current Road Fund Licence." At the time, the motor vehicles were parked in the railway station yard, or rather on a road (property of the railway executive) leading from a main road to the railway sidings, the entrance gate to this road being left open. The offences were detected at about 9.30 *p.m.*

The point has been taken that a railway station yard is not a public road within the meaning of the Road Traffic Act and Regulations; that it is a privately owned road; that the defendants had no authority to park their vehicles there; that they paid no parking fees, and were there on sufferance; that at the time they were not on business at the railway station but were attending a pleasure fair in the town. The police, on the other hand, contend that the railway yard in question is a public road within the meaning of the Act and Regulation inasmuch as it is the only means of access to the railway sidings, and the fact that the defendants were not transacting any business at the station did not alter the description of the road.

Your views will be much appreciated, also any references. J. SUBSCRIBER.

Answer.

We have been unable to find any case on this regulation. *Bugge* v. *Taylor* (1940) 104 J.P. 467 was a case under the Road Transport Lighting Act, 1927, and *O'Brien* v. *Trafalgar Insurance Co., Ltd.* (1945) 109 J.P. 107 was one under the Road Traffic Acts. In each case the statute required certain conditions to be complied with when vehicles were used on a road. We think that the use, in reg. 4 (2), of the words "public road" means that the regulation does not apply to private roads and that the railway station road is not a public road within the meaning of the regulation.

10. Stamp Duty—*Receipt—Payments made by collecting officer.*

Section 44 of the Finance Act, 1930, states that a receipt given by or on behalf of a clerk to justices or a magistrate, or other person authorized to receive such payment, for money received in respect of a fine or other sum ordered to be paid by a court of summary jurisdiction, or as bail, is exempt from stamp duty.

I am clerk to the justices to a court of summary jurisdiction and also the duly appointed collecting officer, and as such receive payments from defendants made under the Summary Jurisdiction (Separation and Maintenance) Acts which I eventually pay over to the complainant. In many cases the weekly amount paid exceeds £2.

Do you agree that, in view of the terms of the before mentioned Finance Act, I am justified in paying the complainant a sum exceeding £2 without her signing for the same over a twopenny stamp? S.CAP.

Answer.

No, these are receipts given *to* the collecting officer, not *by* or on his behalf, and therefore the section does not exempt the recipients of the money from giving a stamped receipt. The collecting officer does not have to give a stamped receipt to the man who pays him the money, but the position of the wife is different.

Will to do good...

... to aid the child-victims of ill-treatment and neglect, to secure for them proper care and attention, and above all, to rebuild family life. You can help this great work in your recommendations to clients. A bequest to the National Society for the Prevention of Cruelty to Children means that the money will be used to the greatest possible good.

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OFFICIAL ADVERTISEMENTS, TENDERS, ETC. (*contd.*)

COUNTY OF THE ISLE OF ELY

Clerk to Justices' Office

APPLICATIONS are invited for the appointment of Clerk in the office of the Clerk to the Justices.

Applicants should have general magisterial experience and be able to keep the accounts and records.

Typewriting essential.

Salary in accordance with the Clerical Division of the National Scale (£395—£440).

The successful candidate will be required to pass a medical examination and to contribute to the Superannuation Fund.

Applications stating full details, age and experience, with two testimonials, to the undersigned not later than February 17, 1950.

FREDERICK WHITTET,
Clerk to the Justices.

34, High Street,
March, Cambs.

SURREY COMBINED PROBATION AREA

Appointment of Full-time Female Probation Officer

APPLICATIONS are invited for the appointment of a full-time female probation officer. Applicants must be not less than 23 nor more than 40 years of age, except in the case of a full-time serving probation officer.

The appointment will be subject to the Probation Rules, 1926-48, and the Probation Officers' Superannuation Order, 1948, and the salary will be in accordance with the prescribed scale.

Applicants should be able to drive a car.

The successful applicant may be required to pass a medical examination.

Applications must be made on forms to be obtained from the undersigned, and should reach him not later than Friday, February 17, 1950.

E. GRAHAM,
Deputy Clerk of the County Probation Committee.

BOROUGH OF TORQUAY

Appointment of Deputy Town Clerk

APPLICATIONS are invited from Solicitors with municipal experience for the above appointment at a salary in accordance with Grade X (£850 to £1,000) in the A.P. & T. Division of the National Joint Council's Scheme.

The appointment will be subject to —

(*a*) One calendar month's notice on either side.

(*b*) The provisions of the Local Government Superannuation Act, 1937.

(*c*) The passing of a medical examination, and

(*d*) The National Joint Council's Conditions of Service.

Applications, stating age, qualifications, experience, etc., together with copies of three recent testimonials should be sent to the undersigned not later than Monday, February 13 next.

T. ELVED WILLIAMS,
Town Clerk.

Town Hall,
Torquay.
January, 1950.

BOROUGH OF GRAVESEND

Appointment of Justices' Clerk

APPLICATIONS are invited from persons duly qualified under the Justices' Clerks' Act, for the appointment of whole-time clerk to the Justices for the above borough. Applicants must possess a wide experience of magisterial law and practice.

The personal salary will be £1,100.

The candidate appointed will be required to devote his whole time to the duties, and not engage in any other employment.

Office accommodation and staff will be provided, together with necessary books, stationery, etc.

The appointment is subject to the approval of the Secretary of State, and to the provisions of the Local Government Superannuation Act, 1937, and will be determinable by three months' notice on either side.

The candidates should state, in the event of appointment, what length of time must elapse before taking office.

The successful candidate will be required to pass a medical examination.

Applications giving age, qualifications, particulars of experience, and either two recent testimonials or the names of two referees to whom reference can be made, must be received, addressed to the undersigned, not later than February 25, 1950.

GILBERT H. F. MUMFORD,
Clerk to the Justices.

191, Parrock Street,
Gravesend, Kent.

WORCESTER CITY AND COUNTY CHILDREN'S DEPARTMENT

Appointment of Woman Court Officer and General Assistant

APPLICATIONS are invited for the appointment of Woman Court Officer and General Assistant on the staff of the Children's department. This department serves both the Worcester City and Worcestershire County Councils, and the successful applicant will be required to represent both Councils in Court and generally assist the Children's Officer, principally in the outside work of the department.

A Social Service Certificate, or the Home Office Probation Officer's Course, or an equivalent qualification, will be an advantage. Experience with adolescent cases of Juvenile Court work is necessary.

The salary will be in accordance with Grade A.P.T. III of the National Joint Council for Local Authorities' Administrative, Professional, Technical and Clerical Staff—£450 per annum by £15 to a maximum of £495.

The officer appointed will be required to provide her own car and will receive the County Council's travelling allowances.

The appointment will be superannuable and subject to three months' notice.

Application forms, which can be obtained from the Children's Officer, Children's department, 28, Foregate Street, Worcester, should be completed and returned to the Children's department endorsed "Appointment of Court Officer" within fourteen days of the appearance of this advertisement.

BERTRAM WEBSTER,
Town Clerk.
W. R. SCURFIELD,
Clerk of the County Council.

January, 1950. (F130).

COUNTY BOROUGH OF WOLVERHAMPTON

Appointment of Clerk to the Justices

APPLICATIONS are invited from persons duly qualified under the Justices' Clerks' Act, 1877, for the appointment of whole-time Clerk to the Justices. Applicants must possess a wide experience of magisterial law and practice.

The personal salary will be £1,500.

The candidate appointed will be required to devote his whole time to the duties and not engage in any other employment.

Office accommodation and staff will be provided together with all necessary books, stationery, etc.

The appointment is subject to the approval of the Secretary of State and to the provisions of the Local Government Superannuation Act, 1937 (and will be determined by three months' notice on either side).

The successful candidate will be required to pass a medical examination.

Applications, giving age, qualifications, particulars of experience and the names of two referees to whom reference may be made, must be received, addressed to The Mayor (Councillor H. Bowdler), Town Hall, Wolverhampton, not later than fourteen days from the date of publication of this advertisement.

Town Hall,
Wolverhapton.
January 30, 1950.

COUNTY BOROUGH OF TYNEMOUTH

Assistant Solicitor

APPLICATIONS are invited for the post of Assistant Solicitor on the permanent staff of the Town Clerk's department, at a salary in accordance with Grade A.P.T. V(a) of the National Scheme of Conditions of Service (£550—£610).

Applications, stating age, date of admission, full particulars of experience, together with copies of three recent testimonials, must be received by me not later than February 21, 1950.

The appointment is subject to the provisions of the Local Government Superannuation Act, 1937, and the successful candidate will be required to submit a satisfactory medical certificate.

Canvassing, either directly or indirectly, will be deemed a disqualification, and applicants must state whether or not to their knowledge they are related to any member of the Council or to the holder of any Senior Office under the Council.

FRED. G. EGNER,
Town Clerk.

14, Northumberland Square,
North Shields.
February 10, 1950.

INQUIRIES

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Amended Advertisement

ROYAL BOROUGH OF NEW WINDSOR

Deputy Town Clerk

APPLICATIONS are invited from solicitors or others, preferably with local government experience, for this appointment within the range of A.P.T. Grades VII and VIII (£635—£760), according to qualifications and experience. Housing accommodation is available.

Further particulars may be obtained from the undersigned. Closing date February 25, 1950.

R. WEBSTER STORR,
Town Clerk.

Municipal Offices,
Kipling Memorial Building,
Windsor.

BOROUGH OF LUTON

Office of Clerk to the Justices. Appointment of Assistants

APPLICATIONS are invited for the appointment of two junior assistants (male or female). Applicants should be experienced in issuing process and the general duties of a magistrates' clerk's office. Shorthand and typewriting is essential.

The salary payable will be in accordance with the General Division (male or female) of the National Scales of Salary.

The appointments will be subject to the provisions of the Local Government Superannuation Act, 1937, and the successful candidates will be required to pass a medical examination.

Applications staing age, present position and experience, with copies of two recent testimonials, must be received by me not later than February 25, 1950.

W. BIRCH CARNLEY,
Clerk to the Justices.

7, George Street, West,
Luton.
February 4, 1950.

BOROUGH OF LUTON

Appointment of Chief Assistant Clerk to the Justices

APPLICATIONS are invited for the above mentioned full-time appointment form applicants who should have a sound knowledge of the work of a justices' Clerk's office and be capable of performing all duties, without supervision including the taking of court and acting entirely in the absence of the justices' clerk.

The salary will be in accordance with A.P.T. Grade VI (£595 to £660) and the successful candidate will be required to contribute to a superannuation scheme and to pass a medical examination.

Applications in the candidate's own handwriting stating age, present and past appointments with full particulars of experience, together with copies of two recent testimonials, must be received by me not later than February 25, 1950.

W. BIRCH CARNLEY,
Clerk to the Justices.

7, George Street West,
Luton.
February 4, 1950.

CITY OF SHEFFIELD

Conveyancing Assistant

APPLICATIONS are invited for the appointment of Conveyancing Assistant in the Town Clerk's Department, in Grade A.P.T. IV of the National Council's Scales (salary £480 rising to £525 per annum). A thorough knowledge of conveyancing is essential and applicants must be able to carry through to completion sales and purchases of freehold and leasehold properties, prepare leases and other documents without supervision.

Applications, stating age, qualifications, experience, details of previous and present appointments, the names of two referees of whom personal inquiries could be made, and accompanied by two recent testimonials, should be delivered to the undersigned not later than February 28, 1950.

Canvassing, directly or indirectly, will disqualify.

JOHN HEYS,
Town Clerk.

Town Hall,
Sheffield, 1.
February, 1950.

HAYES AND HARLINGTON URBAN DISTRICT COUNCIL

Appointment of Assistant Solicitor

APPLICATIONS are invited for the appointment of Assistant Solicitor at a salary in accordance with the National Joint Council's Scale as under, plus appropriate London "weighting": (*a*) After admission and on first appointment within A.P.T. Division Grade Va (£550 — £610 per annum); (*b*) after two years' legal experience from date of admission within A.P.T. Division Grade VII (£635 — £710 per annum).

Experience in conveyancing and of prosecutions in the summary jurisdiction courts is desirable, and previous municipal experience would be an advantage.

The appointment is subject to (*a*) the Council's Scheme of Conditions of Service, which is based on the National Scheme with minor amendments; (*b*) the Local Government Superannuation Acts, 1937 and 1939; (*c*) the successful candidate satisfactorily passing a medical examination, and (*d*) one month's notice on either side.

Forms of application and further particulars and conditions of appointment may be obtained from the undersigned to whom completed applications should be returned not later than February 27, 1950.

A. E. HIGGINS,
Clerk of the Council.

Town Hall,
Hayes,
Middx.

When replying to advertisers please mention the Justice of the Peace and Local Government Review

COUNTY BOROUGH OF HALIFAX

Appointment of Assistant Solicitor

APPLICATIONS are invited for the appointment of Assistant Solicitor at a salary in accordance with Grade Va of the A.P.T. Division of the National Scheme of Conditions of Service, *i.e.*, £550 to £610 per annum, proceeding after two years' legal experience from the date of admission as a Solicitor to Grade VII, *i.e.*, £635 to £710 per annum.

The appointment will be subject to the provisions of the Local Government Superannuation Act, 1937, and termination by one month's notice.

Relationship to any member or officer of the council must be disclosed, and canvassing directly or indirectly will be a disqualification.

Applications, stating age, qualifications and experience, accompanied by copies of two recent testimonials, should be delivered to me not later than February 25, 1950.

RICHARD de Z. HALL,
Town Clerk.

Town Hall,
Halifax.

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